

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of)
)
Application of)
HERBERT L. SCHOENBOHM)
For a Station License in the)
Amateur Radio Service)
)
and)
)
Application of)
HERBERT L. SCHOENBOHM)
For a General Class Operator License)
In the Amateur Radio Service)

WT DOCKET NO. 01-352/

RECEIVED

MAR 27 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

File No. 0000418274

To: Administrative Law Judge
Arthur I. Steinberg

ENFORCEMENT BUREAU'S MOTION TO COMPEL

1. The Enforcement Bureau ("Bureau"), pursuant to section 1.323(c) of the Commission's rules, moves to compel interrogatory answers from Herbert L. Schoenbohm ("Mr. Schoenbohm"). As demonstrated below, Mr. Schoenbohm gave incomplete answers to various interrogatories. Accordingly, the Presiding Judge should order Mr. Schoenbohm to provide complete and meaningful answers.

2. On March 6, 2002, the Bureau submitted 11 numbered interrogatories to Mr. Schoenbohm and advised him to respond to the interrogatories within 14 days of their service. Mr. Schoenbohm sent a copy of his answers (without attachments) to the Bureau on March 20, 2002, and filed a copy with attachments on March 22, 2002. In responding to several interrogatories, Mr. Schoenbohm did not "identify" persons, entities or documents in accordance with the interrogatories' directions. In this regard, the interrogatories informed Mr. Schoenbohm

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that “identify” “when used with reference to a person or persons, means to state his/her full name, last known business and residence addresses, and last known business and residence telephone numbers.” Likewise, the term “identify” “when used with reference to an entity other than a person, means to state its name, last known business address and last known business telephone number.” Finally, the term “identify” “when used with reference to a document, means to state the date, author, addressee, type of document (*e.g.*, the types of documents referenced in [a different definition], a brief description of the subject matter, its present or last known location and its custodian. If any such document was, but no longer is in your possession or control, state the disposition that was made of it, the reason for such disposition, and the date thereof. In lieu of identifying any such document, it may be made available to the Bureau for inspection and copying by so stating in the answer.”

3. In Interrogatory 2, the Bureau asked Mr. Schoenbohm to:

Identify each and every document you intend to use at the hearing in support of the above-captioned applications.

In his answer, Mr. Schoenbohm stated that he planned “to submit letters from various persons, both in [his] immediate community and amateur radio community, a letter from the former Chief of Police, background record check from the Virgin Islands Police Department ... employee evaluation reports and inter office memos. I will also include various court orders that reference to [sic] my employment with the Government of the Virgin Islands.” While the Bureau appreciates that Mr. Schoenbohm may not yet have in his possession some of the documents referenced in his answer, it is quite apparent that, to the extent he now possesses such documents,

he did not “identify” them. By and large, he did not provide the documents’ date, author, addressee, brief description of subject matter, location or custodian. Alternatively, Mr. Schoenbohm could have made, but did make, the document available for inspection and copying. Accordingly, the Bureau requests that the Presiding Judge order Mr. Schoenbohm either to identify the documents or to make them available for inspection and copying.

4. In Interrogatory 3, the Bureau asked Mr. Schoenbohm the following:

Since January 9, 1992 (ten years prior to the release of the *Hearing Designation Order* in this proceeding, FCC 01-392, released January 9, 2002) have you provided engineering services of any kind whatsoever to any person or entity known by you to be licensed by the Federal Communications Commission? If yes:

- A. Identify each and every such entity.
- B. Identify by call sign and location the facility for which such service was provided.
- C. Describe the nature of each and every service provided, including the date(s) of such service and whether such service is ongoing.

In his answer, Mr. Schoenbohm did not identify any of the licensees as requested in subpart A. He did list call signs of the stations and their locations, but did not list the dates of each service provided. Recognizing that requiring complete details may be unduly burdensome, the Bureau hereby limits its request for a complete response to a specification of the services and the dates of such service provided by Mr. Schoenbohm to the licensee of WSTX(AM) and WSTX-FM.

5. In Interrogatory 4, the Bureau asked Mr. Schoenbohm to:

Identify each and every one of your employers since January 9, 1992. With respect to each such employer:

- A. Identify each and every one of your first line supervisors or managers.
- B. Identify each and every performance evaluation given to you by each and every employer.
- C. Identify each and every job application submitted by you to each and every employer.
- D. Identify each and every document relating to any disciplinary action taken against you by each and every employer for any reason whatsoever.

The Bureau is satisfied with Mr. Schoenbohm's answer insofar as it identifies his employers and first line supervisors or managers. With respect to Mr. Schoenbohm's response to subpart B, however, the Bureau observes that Mr. Schoenbohm supplies two evaluations, one signed in October 1997 and one signed in September and October of 1991, prior to the period inquired about. If there are no other evaluations during the period in question, the Bureau would accept such a representation from Mr. Schoenbohm. However, at this time, there is no indication that the 1997 evaluation is the only one subject to the interrogatory. If additional evaluations exist, the Bureau requests an order compelling their production or identification.

6. In Interrogatory 6, the Bureau asked Mr. Schoenbohm a series of questions related to operation of an amateur radio station since January 29, 2001 [the date his right to operate former station KV4FZ expired]. In particular, subpart B asked Mr Schoenbohm to:

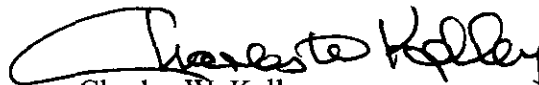
Identify the control operator, if any, at each and every such operation or

transmission and the physical location of said control operator relative to the physical location of the amateur radio transmitting equipment.

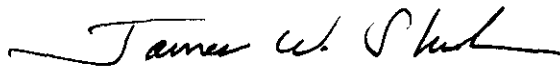
In his answer, Mr. Schoenbohm provided the name of the control operator (Steve Reichlyn) but does not state where Mr. Reichlyn was when Mr. Schoenbohm was transmitting. Rather, Mr. Schoenbohm states: "Mr. Reichlyn was always in a position to make the required adjustments as control operator." Although this answer suggests that Mr. Reichlyn was somewhere nearby, it does not state where he actually was. In short, Mr. Schoenbohm has not answered the question, and the Bureau requests an order compelling a meaningful response.

7. In view of Mr. Schoenbohm's failure to answer completely the interrogatories noted above, the Bureau requests that an order issue to compel Mr. Schoenbohm to provide complete answers as suggested above.


Respectfully submitted,



Charles W. Kelley
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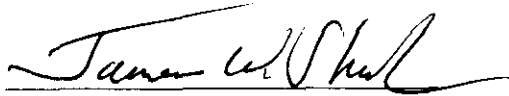
March 27, 2002

CERTIFICATE OF SERVICE

James W. Shook, an attorney in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has on this 27th day of March, 2002, sent by first class United States mail, electronic mail (email) or by hand copies of the foregoing "Enforcement Bureau's Motion to Compel" to:

Herbert L. Schoenbohm (email and first class mail)
Box 4419
Kingshill, V.I. 00851

Administrative Law Judge Arthur I. Steinberg (by hand)
Federal Communications Commission
445 12th Street, S.W., Room 1-C749
Washington, D.C. 20054


James W. Shook

CERTIFICATE OF SERVICE

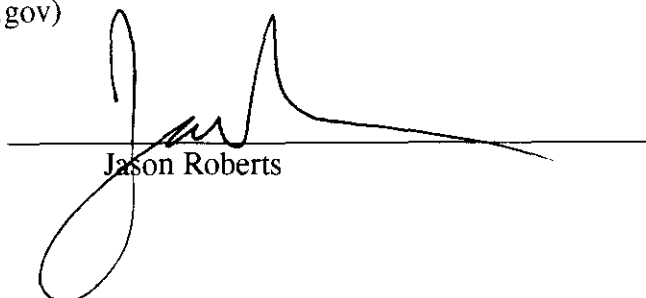
I, Jason Roberts, hereby certify that on this 22nd day of March 2002, I have caused a copy of the foregoing "Reply to Opposition to Motion for Stay" to be served by first-class United States mail, postage prepaid, upon the following:

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In addition, copies of the foregoing Reply to Opposition to Motion for Stay" been served by electronic mail upon the following Mass Media Bureau Staff:

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Jason Roberts